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**HOUSE BILL 77**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Joe M Stell

**FOR THE WATER AND NATURAL RESOURCES COMMITTEE**

**AN ACT**

**RELATING TO LAND USE; REQUIRING COUNTIES AND MUNICIPALITIES TO  
REGULATE BUILDINGS AND BUILDING IMPROVEMENTS IN FLOOD HAZARD  
AREAS; REQUIRING STATE-FINANCED BUILDING IMPROVEMENTS TO COMPLY  
WITH NATIONAL FLOOD INSURANCE PROGRAM STANDARDS; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 3-18-7 NMSA 1978 (being Laws 1975,  
Chapter 14, Section 1, as amended) is amended to read:**

**"3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS-- FLOOD  
AND MUDSLIDE HAZARD AREAS-- BUILDING AND FLOOD PLAIN PERMITS--  
LAND USE CONTROL-- JURISDICTION-- AGREEMENT. --**

**A. For the purpose of minimizing or eliminating  
damage from floods or mudslides in federal emergency management  
agency and locally designated flood-prone areas and for the**

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1 purpose of promoting health, safety and the general welfare, a  
2 county or municipality ~~may~~ with identified flood or mudslide  
3 hazard areas shall by ordinance:

4 (1) designate and regulate flood plain areas  
5 having special flood or mudslide hazards;

6 (2) prescribe standards for constructing,  
7 altering, installing or repairing buildings and other  
8 improvements under a permit system within a designated flood or  
9 mudslide hazard area;

10 (3) require review by the local flood plain  
11 manager for development within a designated flood or mudslide  
12 hazard area provided final decisions are approved by the local  
13 governing body;

14 (4) review subdivision proposals and other new  
15 developments within a designated flood or mudslide hazard area  
16 to ensure that:

17 (a) all such proposals are consistent  
18 with the need to minimize flood damage;

19 (b) all public utilities and facilities  
20 such as sewer, gas, electrical and water systems are designed  
21 to minimize or eliminate flood damage; and

22 (c) adequate drainage is provided so as  
23 to reduce exposure to flood hazards;

24 (5) require new or replacement water supply  
25 systems or sanitary sewage systems within a designated flood or

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1 mudslide hazard area to be designed to minimize or eliminate  
2 infiltration of flood waters into the systems and discharges  
3 from the systems into flood waters and require on-site waste  
4 disposal systems to be located so as to avoid impairment of  
5 them or contamination from them during flooding; and

6 (6) designate and regulate floodways for the  
7 passage of flood waters.

8 B. A flood plain ordinance adopted pursuant to this  
9 section shall substantially conform to the minimum standards  
10 prescribed by the federal insurance administration, regulation  
11 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section  
12 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

13 C. A county or municipality that enacts a flood  
14 plain ordinance shall designate a person, certified pursuant to  
15 the state-certified flood plain manager program, as the flood  
16 plain manager to administer the flood plain ordinance.

17 D. A county or municipality that has areas  
18 designated by the federal emergency management agency and the  
19 county or municipality as flood-prone shall participate in the  
20 national flood insurance program.

21 ~~[D.]~~ E. A county or municipality shall have  
22 exclusive jurisdiction over flood plain permits issued under  
23 its respective flood plain ordinance ~~[and]~~ in accordance with  
24 this section ~~[and so long as it is enforced by an approved~~  
25 ~~inspector pursuant to the Construction Industries Licensing~~

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1 Act]. Notwithstanding Section 3-18-6 NMSA 1978, when a  
2 municipality adopts a flood plain ordinance pursuant to  
3 Paragraph (2) of Subsection A of this section, the  
4 municipality's jurisdiction under the flood plain ordinance  
5 ~~[shall]~~ may take precedence over a respective county flood  
6 plain ordinance within the municipality's boundary and within  
7 the municipality's subdividing and platting jurisdiction.

8 ~~[E.]~~ F. A county or municipality shall designate  
9 flood plain areas having special flood or mudslide hazards in  
10 substantial conformity with areas identified as flood- or  
11 mudslide-prone by the federal insurance administration pursuant  
12 to the national flood insurance program and may designate areas  
13 as flood- or mudslide-prone that may not be so identified by  
14 the federal insurance administration.

15 ~~[F.]~~ G. A municipality or county adopting a flood  
16 plain ordinance pursuant to this section may enter into  
17 reciprocal agreements with any agency of the state, other  
18 political subdivisions or the federal government in order to  
19 effectively carry out the provisions of this section.

20 ~~[G. Within their respective jurisdiction]~~ H. The  
21 department of public safety ~~[the department of environment or~~  
22 ~~the construction industries division of the regulation and~~  
23 ~~licensing department]~~ is designated as the state coordinating  
24 agency for the national flood insurance program and may assist  
25 counties or municipalities when requested by a county or

1 municipality to provide technical advice and assistance. "

2 Section 2. [NEW MATERIAL] PUBLIC BUILDINGS-- COMPLIANCE  
3 WITH THE NATIONAL FLOOD INSURANCE PROGRAM --A building that  
4 receives state appropriations for its construction or that is  
5 repaired or improved with state appropriations in an amount  
6 greater than fifty percent of the building's value before the  
7 repair or improvement shall comply with standards of the  
8 national flood insurance program and Section 3-18-7 NMSA 1978.

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